

U.S. ENVIRONMENTAL PROTECTION AGENCY
POLLUTION/SITUATION REPORT
Phoenix Development and Construction Site - Removal Polrep



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region II

Subject: POLREP #2
Containers Secured and Inventory Complete
Phoenix Development and Construction Site
A24M
Corfu, NY
Latitude: 42.9481190 Longitude: -78.4612800

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From: Keith Glenn, OSC/Environmental Scientist

Date: 12/16/2014

Reporting Period: November 22, 2014 through December 16, 2014

1. Introduction

1.1 Background

Site Number:	A24M	Contract Number:	EP-S2-10-01
D.O. Number:	0077	Action Memo Date:	
Response Authority:	CERCLA	Response Type:	Exercise
Response Lead:	EPA	Incident Category:	Removal Action
NPL Status:	Non NPL	Operable Unit:	
Mobilization Date:	11/18/2014	Start Date:	11/17/2014
Demob Date:		Completion Date:	

CERCLIS ID: NYN000201291 **RCRIS ID:**
ERNS No.: **State Notification:** 1403451
FPN#: **Reimbursable Account #:**

1.1.1 Incident Category

An emergency Removal Action is warranted based on compromised containers, spilled material, open drains, unsecured access to the Site and analytical data indicating the presence of hazardous substances.

1.1.2 Site Description

On October 31, 2014 the New York State Department of Environmental Conservation (NYSDEC) requested the assistance of the United States Environmental Protection Agency (EPA) to review the Phoenix Development and Construction Site for a potential removal action. The NYSDEC was called to the Site in June 2014 due to opening burning observed by an off-duty NYSDEC Police Officer. Upon entry, numerous 55-gallon drums were found in deteriorating conditions located outside exposed to the elements. Several were found on their side with contents spilling out into a marsh area. NYSDEC contractors stabilized containers by over-packing, up-righting drums and vacuuming liquids which were impacting the marsh area. Containers were grouped by suspected content including flammable paints, spent sand-blasting agents, zinc dust, unknown solvents, waste oils, unknown sludge and stained soils. Approximately 17 composite samples were collected from the drums. Those results were shared with EPA and indicated concentrations of lead and chromium exceeding RCRA disposal criteria for hazardous waste. In addition, solvents and flammable paints found in drums exhibited flashpoints around 72°F. High levels of BTEX compounds and low concentrations of PCBs were also noted.

On November 7, 2014 EPA received verbal authorization from the property owner to access 180 Genesee Road. EPA met with NYSDEC officials on November 13, 2014 at the Phoenix Development and Construction Site and investigated the property. Approximately 100 drums were observed throughout the Site, numerous in compromised conditions. Although NYSDEC contractors staged and covered the containers, high winds removed the tarps exposing the drums. The On-Scene Coordinator (OSC) found drums void of tops, with holes, bulging and dented. Several were on their sides with contents exposed. In addition, approximately 50 5-gallon pails of flammable paint and zinc dust were observed in various areas of the property. Additional drums were found inside the warehouse which are suspected to hold waste oils and spent solvents. Spilled materials were observed on the ground of the warehouse located near interior drains. An investigation to find outfalls located sheening in waters of the marsh.

1.1.2.1 Location

The Phoenix Development and Construction Site is located at 180 Genesee Road, Village of Corfu, Town of Darien, Genesee County, New York (coordinates 42.94812, -78.46128); Tax Record 58.221. The property consists of an 8,000 ft² pole-barn warehouse, office building, two decontamination trailers and derelict vehicles located throughout the 5 acre parcel. Genesee Road defines the northern boundary of the property while a Conrail railroad track is to the south. The eastern boundary is a vacant parcel of land that is held by a previous owner of the Site and was once used for wood chipping. The western boundary of the property is defined by the jurisdiction of Erie County of which sits a residential property. Residential properties are located directly across Genesee Road, neighboring to the west and adjacent to the neighboring vacant parcel.

The property has several manmade impoundments, some in excess of 10 feet high. Marsh areas are located in the south and west areas of the property. A federally designated wetland is located across Genesee Road approximately 500 feet to the north.

1.1.2.2 Description of Threat

Approximately 150 containers are located throughout the property in various states of deterioration. Numerous containers have been found to be void of tops, exposed to harsh weather elements, damaged and spilling contents onto the ground. The unsecured facility has allowed trespassers to enter the buildings and come in contact with hazardous substances. Evidence of fires throughout the property indicate unauthorized access and mishandling of materials. Residential properties are located nearby and school bus stops are conducted in front of the property. Spilled material have potentially impacted on-site marsh areas and surface water running to the south. Neighboring properties are on private well water.

1.1.3 Preliminary Removal Assessment/Removal Site Inspection Results

NYSDEC collected approximately 17 composite samples from the drums, as well as surface waters and surface soils. TCLP concentrations of lead, chromium and arsenic exceed criteria for RCRA hazardous waste removal purposes at 128 ppm, 19.9 ppm and 9.4 ppm respectively. In addition, concentrations of total BTEX compounds exceed 1200 ppm causing flashpoints to be as low as 73°F. Acetone, benzene, naphthalene and other VOCs/SVOCs were found at elevated concentrations. Large quantities of zinc dust have been found in compromised containers throughout the Site. Zinc dust becomes unstable and explosive when in contact with water and air.

2. Current Activities

2.1 Operations Section

2.1.1 Narrative

On December 9, 2014 EPA and contractor personnel mobilized to the Site to commence stabilization activities, conduct an inventory of containers and apply security measures. All containers were moved indoors as to not become additionally impacted by adverse weather conditions. Containers located within the interior spaces were collected and organized by material type. A full inventory of materials was conducted in preparation for disposal activities.

Between December 10 and 14 all containers previously staged outside by NYSDEC contractors were moved into the on-site warehouse and organized by compatibility characteristics. All floor drains were secured prior to movement of materials as to prevent releases in the event of a container failure or accident. EPA and RST contract personnel provided interior and perimeter air monitoring while containers were moved and inventoried.

A full inventory of materials was completed during the operational period. A Drum Log was created for each container 30-gallons or greater in size. Containers were opened to inspect and observe the physical state of contents. VOC readings were measured for these containers and documented within the log. All containers less than 30-gallons, such as the many 5-gallon pails, were segregated by materials of common substance and staged on pallets. Since much of this material appears to be flammable as indicated by exterior labels, all oxidizers and cylinders were segregated and isolated from these containers. A total of 285 containers were found at the Site, of which 94 were included in the NYSDEC composite sampling strategy. An additional 9 containers, ranging in size from 55-gallons to approximately 300 gallons, were located within the interior structure. A total of 3 cylinders consisting of acetylene, compressed oxygen and propane were found and staged appropriately. A total of 155 containers are 5-gallons or less and contain flammable paint-related materials. One (1) container was filled with an oxidizer while 23 containers were found to be empty.

Prior to departing the Site, the local fire department was notified of EPA activities and a description of materials and hazards was presented to the Fire Chief. NYSDEC officials with historical knowledge of the property and company were updated of operations conducted. Locks on the front gate were installed to prevent unauthorized access to the property and warehouse/office doors were secured as best as practicable.

2.1.2 Response Actions to Date

During the operational period, all containers were secured inside the warehouse located on-site. An inventory of containers was completed detailing the construction of the container, labels present, condition of container and physical characteristics of the contents. All containers were organized by materials of similar properties, following the original staging and sampling strategy established by NYSDEC officials. All floor drains in the warehouse were sealed to prevent any releases of material to the outside environment in case of a drum or container failure.

In preparation for disposal of material, on November 10, 2014 forms requesting the RCRA ID were submitted to the EPA New York Regional Office. EPA personnel designated the RCRA ID for the Phoenix Development and Construction Site as NYN000201291. Draft T&D proposals were generated by the ERRS contractor and are being reviewed.

Verbal access to the property was granted by Markella Zafirakis on November 7, 2014 with written authorization on November 20th. Access to property owned by Phoenix Development and Construction

was verbally granted by Steven Zafirakis and Steven Dimitri Moutsatsos, the President and Vice-President respectively, on November 13, 2014. Follow-up with these parties continued on November 21, 2014 via email and again on December 1-2 via certified mail. No written authorization from corporate personnel has been received to date.

For previous response actions taken at the Site, please refer to additional Pollution Reports.

2.1.3 Enforcement Activities, Identity of Potentially Responsible Parties (PRPs)

EPA has designated Marissa Trouno as the enforcement case officer for the Site.

In public records, including the deed to the property, Markella Zafirakis is listed as the owner of 180 Genesee Road. Interviews with Ms. Zafirakis and attorneys for the mortgage lender have indicated her father, Gregory Zafirakis, placed her name on the deed when she was young. Since the passing of Gregory Zafirakis, the mortgage lender, dirtyblinds.com of DFW, has made attempts to foreclose on the property. Once learned of the Site conditions, proceedings were stopped. Dirtyblinds.com of DFW is owned by Robert Schlossin. Mr. Schlossin is a previous owner of 180 Genesee Road and currently owns the vacant parcel neighboring to the east.

Phoenix Development and Construction was established in June 2006 and incorporated in the State of New York. The President of the company is listed as Steven G. Zafirakis, the son of Gregory Zafirakis. Interviews with Steven indicate he did not run the company or have day-to-day operational control. Steven claims his name was placed on the paperwork by his father when he was young.

Steven Dimitri Moutsatsos is listed as the Vice President of Phoenix Development and Construction and is the nephew of Gregory Zafirakis. In April 2012 he filed bankruptcy paperwork for the company, however the Judge dismissed the case that November. Following the passing of Gregory Zafirakis in November 2012, Mr. Moutsatsos attempted to keep the company operational with bridge painting projects throughout the Northeast, expanding into several states. Operations ended in approximately September 2013 as the company was not able to support personnel financially. Mr. Moutsatsos stated in interviews that he had control of the company following the passing of Mr. Zafirakis while Steven Zafirakis never had involvement. However, review of on-site records found Mr. Zafirakis was maintained as a salary employee on the payroll of the company, receiving pay increases following the passing of his father. Further inspections of his LinkedIn account show that he claims to have been a Project Manager for the company.

2.1.4 Progress Metrics

This information will be available during the T&D operations

<i>Waste Stream</i>	<i>Medium</i>	<i>Quantity</i>	<i>Manifest #</i>	<i>Treatment</i>	<i>Disposal</i>

2.2 Planning Section

2.2.1 Anticipated Activities

Following review of analytical data provided by the NYSDEC and the container inventory generated during the operational period, focus will be placed on development of a T&D proposal. EPA and ERRS personnel will solicit bids and quotes for the proper removal, transport and disposal of all potentially hazardous materials located at the Site.

2.2.1.1 Planned Response Activities/Next Steps

Short-term focus will be placed on the T&D of materials currently staged at the Site. ERRS will finalize the proposal and solicitation for quotes prior to sending it out for bid. Once a firm has been awarded the subcontract for T&D of materials, personnel will return to the facility and prepare the containers for shipment. This may require additional overpacking of drums, transfer of tank contents, consolidation of

materials and proper labeling. All paint-related materials of smaller container size, 5-gallons and less, will be placed in cubic yard boxes for disposal. Disposal is scheduled to be completed by January 16, 2015.

In the long-term, EPA and contract personnel will return to the Site to investigate the environmental impacts from leaking containers. Observations from NYSDEC and EPA officials during the November 13, 2014 Site visit indicated sheening on surface waters, stained soils and impacted marsh areas. NYSDEC interviews of a past employee have indicated the potential of buried drums on the property. EPA will return to the Site in spring 2015 to conduct geophysical surveys and collect environmental media samples to determine if additional actions are necessary.

2.2.2 Issues

Winter weather conditions in western New York have disrupted operations in the past. It is expected that cold temperatures, heavy winds and significant snow fall will continue throughout the winter.

2.3 Logistics Section

All logistical needs will be supplied by EPA and/or the ERRS contractor.

2.4 Finance Section

2.4.1 Narrative

On November 17, 2014 the ERRD Director verbally authorized a \$250,000 ceiling for removal actions at the Site, of which \$200,000 is for mitigation activities.

Estimated Costs *

	Budgeted	Total To Date	Remaining	% Remaining
Extramural Costs				
ERRS - Cleanup Contractor	\$200,000.00	\$18,996.00	\$181,004.00	90.50%
RST/START	\$50,000.00	\$5,913.00	\$44,087.00	88.17%
Intramural Costs				
Total Site Costs	\$250,000.00	\$24,909.00	\$225,091.00	90.04%

* The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

2.5 Other Command Staff

2.5.1 Safety Officer

A Health and Safety Plan has been generated by the RST contract. ERRS is currently developing a Site specific plan. The OSC has overall responsibility for Site safety.

2.5.2 Liaison Officer

The OSC will act as Liaison Officer to local and State governmental agencies.

2.5.3 Information Officer

No information officer has been designated at this time.

3. Participating Entities

3.1 Unified Command

Not activated for this response.

3.2 Cooperating Agencies

New York State Department of Environmental Conservation (NYSDEC)

4. Personnel On Site

During the operational period a total of 7 people were on-site:

EPA - 1

RST - 1

ERRS - 5

5. Definition of Terms

Definition of Terms

Assisting and Cooperating Agencies - Agencies who are assisting the EPA response, but are not a part of Unified Command.

E Goods - Electronic machines which contain hazardous components. Emergency Response - any activity undertaken by the Operations Section which mitigated an immediate threat to human health or the environment.

FRP - Facility Response Plan. Under the Clean Water Act, as amended by the Oil Pollution Act, a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil. Required by certain facilities that store and use large quantities of oil.

Household Hazardous Waste - Small quantity waste from households that contain corrosive, toxic, ignitable, or reactive ingredients is hazardous. This includes pesticides, paint, solvents, etc.

Hazardous Debris - Debris which contains compounds that make it inappropriate for municipal landfill disposal

Monitoring - Using equipment which will give limited real-time information about constituents in environmental media. This method is used most often for air and water testing.

RCRA - Resource Conservation and Recovery Act.

RMP- Risk Management Plan. Under the Clean Air Act, certain facilities with large quantities of toxic potentially air born chemicals whose releases may impact human populations are required to submit to EPA a plan for hazard assessment, prevention, and emergency response.

Sampling -The process of taking environmental media for analysis at a laboratory of its constituents. These tests may require multiple days to complete, but test for a wider array of constituents than monitors.

Small Container - any container with a potential capacity of less than 5 gallons.

TRI - Toxic Release Inventory - A publicly available EPA database that contains information on toxic chemical releases and other waste management activities reported annually by certain covered industry groups as well as federal facilities. This inventory was established under the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and expanded by the Pollution Prevention Act of 1990.

Unified Command - A structure based on the Incident Command System (ICS) that brings together the Incident Commanders of all major organizations involved in the incident in order to coordinate an effective response, while at the same time allowing each to carry out their own jurisdictional, legal, and functional responsibilities.

White Goods - Large home electronics such as refrigerators, washing machines, and dryers.

WW - Wastewater Treatment Facilities

6. Additional sources of information

6.1 Internet location of additional information/report

epaosc.org/phoenixdevelopment

6.2 Reporting Schedule

The next Pollution Report (POLREP) will be generated once T&D has been established.

7. Situational Reference Materials

www.epaosc.org/phoenixdevelopment